

Amendment No. 7 to HB7073

Hardaway
Signature of Sponsor

AMEND Senate Bill No. 7027

House Bill No. 7073*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 37-1-102(b)(5), is amended by adding the following new subdivision (b)(5)(C) and redesignating the current subdivision (b)(5)(C) and subsequent subdivisions accordingly:

(C) A person under twenty-four (24) years of age for the limited purpose of remaining under the jurisdiction of the juvenile court while serving a sentence as a serious youthful offender pursuant to § 37-1-131(a)(9);

SECTION 2. Tennessee Code Annotated, Section 37-1-131(a), is amended by adding the following new subdivision:

(9)

(A) The court shall classify a child as a serious youthful offender if the juvenile is:

(i) Adjudicated delinquent for an offense listed in subdivision (a)(9)(B) that was committed when the child was sixteen (16) years of age or older; or

(ii) Confined in a youth development center approved, certified, or licensed by the department of children's services, and charged with escape from that center;

(B) This subdivision (a)(9) applies to delinquent acts committed by a child that, if committed by an adult, would constitute:

(i) First degree murder, as defined in § 39-13-202, if the child was less than sixteen (16) years of age at the time of commission of the offense;

(ii) Second degree murder, as defined in § 39-13-210, if the child was less than sixteen (16) years of age at the time of the commission of the offense;

(iii) Rape, as defined in § 39-13-503;

(iv) Aggravated rape, as defined in § 39-13-502;

(v) Rape of a child, as defined in § 39-13-522;

(vi) Aggravated rape of a child, as defined in § 39-13-531;

(vii) Aggravated robbery, as defined in § 39-13-402;

(viii) Especially aggravated robbery, as defined in § 39-13-403;

(ix) Especially aggravated burglary, as defined in § 39-13-1004;

(x) Aggravated kidnapping, as defined in § 39-13-304;

(xi) Especially aggravated kidnapping, as defined in § 39-13-305;

(xii) Commission of an act of terrorism, as defined in § 39-13-805;

(xiii) Carjacking, as defined in § 39-13-404;

(xiv) Aggravated child abuse or aggravated child neglect or endangerment, as defined in § 39-15-402; or

(xv) Any Class A or B felony offense involving the use of a deadly weapon during the commission of the offense;

(C) The court may impose any of the dispositions set forth in this section upon a juvenile classified as a serious youthful offender; provided, that the disposition must not end before the serious youthful offender's nineteenth birthday. The time credits set forth in § 37-1-137(h) do not apply to shorten the time of a serious youthful offender's determinate disposition imposed pursuant to this subdivision (a)(9);

(D) In addition to the disposition imposed pursuant to subdivision (a)(9)(C), the court shall impose an additional disposition to be served after the serious youthful offender turns nineteen (19) years of age, and which ends on or before the offender's twenty-fourth birthday. The minimum additional disposition beyond the serious youthful offender's nineteenth birthday must be:

- (i) Four (4) years if the juvenile is adjudicated delinquent for an act that would be a Class A felony if committed by an adult;
- (ii) Three (3) years if the juvenile is adjudicated delinquent for an act that would be a Class B felony if committed by an adult; or
- (iii) One (1) year if the juvenile is adjudicated delinquent for any other act listed in subdivision (a)(9)(B);

(E)

(i) The court may stay the additional disposition imposed pursuant to subdivision (a)(9)(D);

(ii) If the additional disposition is stayed, then the court shall conduct a hearing within four (4) months of the serious youthful offender's nineteenth birthday to review the offender's circumstances and determine whether the stayed additional disposition should be invoked;

(iii) The court shall invoke the additional disposition if the serious youthful offender has:

- (a) Committed another delinquent act;
- (b) Engaged in other conduct that creates a substantial safety risk;
- (c) Failed to meet the conditions of supervision during the determinate disposition prior to the hearing;
- (d) Failed to attend school regularly with passing grades or graduated from high school; or

(e) Failed to exert best efforts to obtain regular employment, if the offender has graduated from high school;

(F)

(i) If the court revokes the stay, then the court may order the serious youthful offender to serve the additional disposition as originally imposed or the court may modify the length of the additional disposition, subject to the minimum requirements set forth in subdivision (a)(9)(D); and

(ii) If the court imposes an additional disposition beyond a serious youthful offender's nineteenth birthday, then the court shall enter an order on or before the offender's nineteenth birthday committing the offender to the custody of the department of correction to serve the additional sentence imposed by the juvenile court. Under no circumstances shall the serious youthful offender remain in the custody of the department of children's services beyond the offender's nineteenth birthday;

(G) If the court determines that the additional disposition should not be invoked, then the juvenile court shall enter an order terminating supervision as of the serious youthful offender's nineteenth birthday;

(H) The court shall make or cause to be made an audio recording of a hearing conducted pursuant to this subdivision (a)(9). The recording must include all proceedings in open court and such other proceedings as the judge may direct and must be preserved as part of the record of the hearing;

(I) A serious youthful offender supervised in a secure facility must be housed separate and removed from the general population. In determining the secure facility location of the serious youthful offender, the commissioner of correction shall take into consideration the proximity of the facility to the offender's home; and

(J) During the time of any disposition served after the serious youthful offender's nineteenth birthday, the juvenile court has the same powers as a trial court, including, but not limited to, the authority to preside over probation revocation proceedings pursuant to § 40-35-311. If the offender is found to have violated the conditions of probation or committed a new offense, then the juvenile court may impose any consequences that may be imposed on an adult offender serving a period of probation, and the court is not limited to the disposition authorized in this section.

SECTION 3. This act takes effect January 1, 2024, the public welfare requiring it, and applies to acts committed on or after that date.